

1-1 By: Raymond, Burkett, Price H.B. No. 2463
 1-2 (Senate Sponsor - Campbell)
 1-3 (In the Senate - Received from the House April 13, 2015;
 1-4 April 21, 2015, read first time and referred to Committee on Health
 1-5 and Human Services; May 18, 2015, reported adversely, with
 1-6 favorable Committee Substitute by the following vote: Yeas 9, Nays
 1-7 0; May 18, 2015, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 2463 By: Campbell

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the continuation of the functions of the Department of
 1-23 Assistive and Rehabilitative Services and certain other functions.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 117.001, Human Resources Code, is
 1-26 amended by amending Subdivision (1) and adding Subdivisions (1-a),
 1-27 (1-b), (4-a), and (4-b) to read as follows:

1-28 (1) "Caseworker" means a department employee who
 1-29 manages a client's case under a direct services program and
 1-30 provides direct services to the client under the program.

1-31 (1-a) "Center for independent living" has the meaning
 1-32 assigned by Section 702 of the federal Rehabilitation Act of 1973
 1-33 (29 U.S.C. Section 796a).

1-34 (1-b) "Commission" means the Health and Human Services
 1-35 Commission.

1-36 (4-a) "Direct services" means services provided to a
 1-37 client by a department employee, including counseling,
 1-38 facilitating the purchase of services from a source other than the
 1-39 department, and purchasing equipment and other items and providing
 1-40 other services necessary for the client to successfully complete a
 1-41 department program.

1-42 (4-b) "Direct services program" means a program
 1-43 operated by the department through which direct services are
 1-44 provided.

1-45 SECTION 2. Subchapter D, Chapter 117, Human Resources Code,
 1-46 is amended by adding Sections 117.079, 117.080, 117.081, and
 1-47 117.082 to read as follows:

1-48 Sec. 117.079. INTEGRATION OF INDEPENDENT LIVING SERVICES
 1-49 PROGRAMS. (a) Not later than September 1, 2016, the department
 1-50 shall integrate into a single independent living services program
 1-51 the following programs that the department operates under Title VII
 1-52 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796 et
 1-53 seq.):

1-54 (1) the Independent Living Program for individuals who
 1-55 are blind or have visual impairments; and

1-56 (2) the Independent Living Services Program for
 1-57 individuals with significant disabilities.

1-58 (b) The executive commissioner shall adopt any rules
 1-59 necessary to facilitate the integration of the programs identified
 1-60 in Subsection (a), including rules that direct the department, as

2-1 the single designated state entity responsible for administering
2-2 the state's independent living services program, to comply with the
2-3 requirements of 29 U.S.C. Section 796c for the integrated program.

2-4 (c) This section expires September 1, 2017.

2-5 Sec. 117.080. PROVISION OF INDEPENDENT LIVING SERVICES.

2-6 (a) The department shall ensure that all services provided under
2-7 the independent living services program that the department
2-8 operates under Title VII of the federal Rehabilitation Act of 1973
2-9 (29 U.S.C. Section 796 et seq.) are directly provided by centers for
2-10 independent living, except as provided by Subsection (b), and are
2-11 not directly provided by the department.

2-12 (b) If an area of the state does not have a center for
2-13 independent living, or no center for independent living in that
2-14 area is able to provide certain necessary services under the
2-15 independent living services program, the department shall seek to
2-16 identify a center for independent living that is willing and able to
2-17 contract with a nonprofit organization or other person to provide
2-18 the independent living services in the area under the program. If
2-19 no center for independent living is willing and able to contract
2-20 with another organization or other person, the department may
2-21 directly contract with an organization or other person who is not a
2-22 center for independent living to provide the independent living
2-23 services in the area under the program.

2-24 (c) The department shall evaluate the independent living
2-25 services provided by a center for independent living and shall
2-26 provide necessary training or technical assistance to help the
2-27 center for independent living expand its capacity to provide a full
2-28 range of independent living services.

2-29 (d) The department shall monitor the performance of each
2-30 center for independent living in providing independent living
2-31 services, including how the center for independent living monitors
2-32 the performance of the organizations and other persons with whom it
2-33 contracts to provide independent living services.

2-34 (e) The executive commissioner shall adopt rules to
2-35 implement this section that include:

2-36 (1) an equitable and transparent methodology for
2-37 allocating funds to centers for independent living under the
2-38 independent living services program;

2-39 (2) requirements applicable to the department in
2-40 contracting with centers for independent living to provide
2-41 independent living services under the program;

2-42 (3) requirements applicable to centers for
2-43 independent living in contracting with organizations and other
2-44 persons to provide independent living services under the program;

2-45 (4) requirements applicable to the department in
2-46 contracting with organizations or other persons who are not centers
2-47 for independent living to provide independent living services under
2-48 the program;

2-49 (5) a process for the department to monitor
2-50 independent living services contracts;

2-51 (6) guidelines on the department's role in providing
2-52 technical assistance and training to centers for independent living
2-53 as necessary; and

2-54 (7) expectations for department employees to refer
2-55 persons who contact the department seeking independent living
2-56 services to centers for independent living.

2-57 (f) Notwithstanding the requirements of this section, the
2-58 department shall ensure that services provided under the
2-59 independent living services program are provided as required by
2-60 this section not later than August 31, 2016. This subsection
2-61 expires September 1, 2017.

2-62 Sec. 117.081. COMPREHENSIVE REHABILITATION SERVICES
2-63 PROGRAM. The department shall operate a comprehensive
2-64 rehabilitation services program to provide comprehensive
2-65 rehabilitation services to persons with traumatic brain or spinal
2-66 cord injuries. The executive commissioner shall adopt rules for
2-67 the program that include:

2-68 (1) a system of organization for the delivery of the
2-69 comprehensive rehabilitation services;

4-1 (ii), cases in which direct services have been provided for more
 4-2 than two years;
 4-3 (ii) cases in the Blind Children's
 4-4 Vocational Discovery and Development Program in which direct
 4-5 services have been provided for more than five years; and
 4-6 (iii) cases that are significantly outside
 4-7 the expenditure guidelines for that type of case;
 4-8 (C) be used to evaluate a caseworker's
 4-9 eligibility determinations and decisions to close a case before a
 4-10 service plan is developed or without the client reaching the
 4-11 client's goal; and
 4-12 (D) focus on the quality of a caseworker's
 4-13 decision-making and compliance with program requirements; and
 4-14 (3) require a caseworker's supervisor to use the
 4-15 reviews of a caseworker's cases in conducting the caseworker's
 4-16 performance evaluation and in providing informal guidance to the
 4-17 caseworker to improve the caseworker's performance.
 4-18 Sec. 117.093. DIRECT SERVICES PROGRAM MONITORING. (a)
 4-19 Department personnel not employed to perform functions directly
 4-20 under a direct services program must be designated to monitor those
 4-21 programs from a statewide perspective. The designated personnel
 4-22 shall collect, monitor, and analyze data relating to direct
 4-23 services programs and report outcomes and trends to program
 4-24 managers and, as necessary, the commissioner or other appropriate
 4-25 executive management.
 4-26 (b) The monitoring function under Subsection (a) must
 4-27 include monitoring of:
 4-28 (1) performance data from all regions and all direct
 4-29 services programs to identify trends; and
 4-30 (2) case review data to ensure compliance with the
 4-31 case review system under Section 117.092.
 4-32 (c) Personnel designated to perform the monitoring function
 4-33 required by this section shall work with direct services program
 4-34 staff to develop objective and detailed outcome measures for the
 4-35 programs.
 4-36 (d) The department may conduct internal peer reviews of the
 4-37 department's field offices at regular intervals to assess the field
 4-38 offices' compliance with federal regulations and department
 4-39 policies and to compare each field office's compliance with the
 4-40 compliance of the other field offices. The department may use
 4-41 personnel designated to perform the monitoring function required by
 4-42 this section to facilitate the internal peer reviews.
 4-43 SECTION 4. (a) Subchapter A, Chapter 117, Human Resources
 4-44 Code, is amended by adding Sections 117.004 and 117.005 to read as
 4-45 follows:
 4-46 Sec. 117.004. INAPPLICABILITY OF CERTAIN LAW.
 4-47 Notwithstanding Section 117.003, Section 325.017, Government Code,
 4-48 does not apply to the department.
 4-49 Sec. 117.005. MEANING OF CERTAIN REFERENCES IN LAW. (a) A
 4-50 reference in this chapter or in any other law to the department in
 4-51 relation to a function transferred to the commission under Section
 4-52 117.012 means the commission or the division of the commission
 4-53 performing the function after its transfer.
 4-54 (b) In this chapter or in any other law and notwithstanding
 4-55 any other law, a reference to any of the following state agencies or
 4-56 entities or to the chief executive officer or governing body of any
 4-57 of the following state agencies or entities in relation to a
 4-58 function transferred to the commission under Section 117.012 from
 4-59 the department that the department assumed in accordance with
 4-60 Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular
 4-61 Session, 2003, means the executive commissioner, the commission, or
 4-62 the division of the commission performing the function after its
 4-63 transfer to the commission:
 4-64 (1) the Texas Rehabilitation Commission;
 4-65 (2) the Interagency Council on Early Childhood
 4-66 Intervention;
 4-67 (3) the Texas Commission for the Blind; and
 4-68 (4) the Texas Commission for the Deaf and Hard of
 4-69 Hearing.

5-1 (c) A reference in this chapter or in any other law to the
5-2 commissioner in relation to a function transferred to the
5-3 commission under Section 117.012 means the executive commissioner,
5-4 the executive commissioner's designee, or the director of the
5-5 division of the commission performing the function after its
5-6 transfer.

5-7 (d) A reference in this chapter or in any other law to the
5-8 council in relation to a function after its transfer to the
5-9 commission under Section 117.012 means the executive commissioner
5-10 or the executive commissioner's designee, as appropriate, and a
5-11 function previously performed by the council is a function of that
5-12 appropriate person.

5-13 (b) Chapter 117, Human Resources Code, is amended by adding
5-14 Subchapter A-1 to read as follows:

5-15 SUBCHAPTER A-1. TRANSFER OF ASSISTIVE AND REHABILITATIVE SERVICES
5-16 TO COMMISSION

5-17 Sec. 117.011. DEFINITIONS. In this subchapter:

5-18 (1) "Administrative support services" has the meaning
5-19 assigned by Section 531.0055(d), Government Code.

5-20 (2) "Function" includes a power, duty, program, or
5-21 activity of a state agency or entity.

5-22 Sec. 117.012. TRANSFER OF ASSISTIVE AND REHABILITATIVE
5-23 SERVICES TO COMMISSION. (a) Not later than September 1, 2016, and
5-24 subject to Subsection (b), all functions of the department and
5-25 council, including administrative support services functions, are
5-26 transferred to the commission as provided by this subchapter.

5-27 (b) If S.B. 208, H.B. 3294, or similar legislation of the
5-28 84th Legislature, Regular Session, 2015, is enacted and becomes law
5-29 and provides for the transfer of certain department functions to an
5-30 entity other than the commission, the functions transfer as
5-31 provided by that legislation and are not subject to transfer under
5-32 Subsection (a).

5-33 Sec. 117.013. EFFECT OF TRANSFERS. (a) All of the
5-34 following that relate to a function that is transferred to the
5-35 commission under Section 117.012 are transferred to the commission
5-36 on the date the related function is transferred to the commission:

5-37 (1) all obligations and contracts, including
5-38 obligations and contracts related to a grant program;

5-39 (2) all property and records in the custody of the
5-40 department or council from which the function is transferred;

5-41 (3) all funds appropriated by the legislature and
5-42 other money;

5-43 (4) all complaints, investigations, or contested
5-44 cases that are pending before the department or the commissioner,
5-45 without change in status; and

5-46 (5) all necessary personnel, as determined by the
5-47 executive commissioner.

5-48 (b) A rule, policy, or form adopted by or on behalf of the
5-49 department or council that relates to a function that is
5-50 transferred to the commission under Section 117.012 becomes a rule,
5-51 policy, or form of the commission on transfer of the related
5-52 function and remains in effect:

5-53 (1) until altered by the executive commissioner or
5-54 commission, as appropriate; or

5-55 (2) unless it conflicts with a rule, policy, or form of
5-56 the commission.

5-57 (c) A license, permit, or certification in effect that was
5-58 issued by the department that relates to a function that is
5-59 transferred to the commission under Section 117.012 is continued in
5-60 effect as a license, permit, or certification of the commission on
5-61 transfer of the related function until the license, permit, or
5-62 certification expires, is suspended or revoked, or otherwise
5-63 becomes invalid.

5-64 Sec. 117.014. APPLICABILITY OF FORMER LAW. An action
5-65 brought or proceeding commenced before the date of a transfer
5-66 prescribed by this subchapter, including a contested case or a
5-67 remand of an action or proceeding by a reviewing court, is governed
5-68 by the laws and rules applicable to the action or proceeding before
5-69 the transfer.

6-1 Sec. 117.015. AUTHORITY OF DEPARTMENT. The powers and
6-2 authority of the department with respect to a function are not
6-3 reduced or otherwise limited until the date the function is
6-4 transferred in accordance with this subchapter or other law,
6-5 notwithstanding Section 117.003 or any other law.

6-6 Sec. 117.016. EXPIRATION OF SUBCHAPTER. This subchapter
6-7 expires September 1, 2019.

6-8 (c) Section 117.003, Human Resources Code, is amended to
6-9 read as follows:

6-10 Sec. 117.003. SUNSET PROVISION. The Department of
6-11 Assistive and Rehabilitative Services is subject to Chapter 325,
6-12 Government Code (Texas Sunset Act). Unless continued in existence
6-13 as provided by that chapter, the department is abolished [~~and this~~
6-14 ~~chapter expires~~] September 1, 2015.

6-15 (d) As soon as appropriate under Subchapter A-1, Chapter
6-16 117, Human Resources Code, as added by this section, and in a manner
6-17 that minimizes disruption of services, the Health and Human
6-18 Services Commission shall take appropriate action to be designated
6-19 as the state agency responsible under federal law for any state or
6-20 federal program that is transferred to the commission in accordance
6-21 with that subchapter and for which federal law requires the
6-22 designation of a responsible state agency.

6-23 (e) Effective September 1, 2016, the following provisions
6-24 of the Human Resources Code, including provisions amended by S.B.
6-25 No. 219, Acts of the 84th Legislature, Regular Session, 2015, are
6-26 repealed:

- 6-27 (1) Section 117.002;
- 6-28 (2) Section 117.021;
- 6-29 (3) Section 117.022;
- 6-30 (4) Section 117.023;
- 6-31 (5) Section 117.024;
- 6-32 (6) Section 117.025;
- 6-33 (7) Section 117.026;
- 6-34 (8) Section 117.027;
- 6-35 (9) Section 117.028;
- 6-36 (10) Section 117.029;
- 6-37 (11) Section 117.030;
- 6-38 (12) Section 117.032;
- 6-39 (13) Section 117.051;
- 6-40 (14) Section 117.052;
- 6-41 (15) Section 117.053;
- 6-42 (16) Section 117.054;
- 6-43 (17) Section 117.055;
- 6-44 (18) Section 117.056;
- 6-45 (19) Section 117.0711;
- 6-46 (20) Section 117.0712; and
- 6-47 (21) Section 117.072.

6-48 (f) Notwithstanding Subsection (e) of this section, the
6-49 implementation of a provision repealed by that subsection ceases on
6-50 the date all functions of the Department of Assistive and
6-51 Rehabilitative Services or the Assistive and Rehabilitative
6-52 Services Council are transferred to the Health and Human Services
6-53 Commission as provided by Subchapter A-1, Chapter 117, Human
6-54 Resources Code, as added by this section, or to another entity, to
6-55 the extent the department or council is responsible for the
6-56 provision's implementation.

6-57 (g) This section takes effect only if the Department of
6-58 Assistive and Rehabilitative Services is not continued in existence
6-59 by any legislation of the 84th Legislature, Regular Session, 2015.

6-60 SECTION 5. (a) In this section:

- 6-61 (1) "Commission" means the Health and Human Services
6-62 Commission.
- 6-63 (2) "Committee" means the Health and Human Services
6-64 Transition Legislative Oversight Committee established under this
6-65 section.
- 6-66 (3) "Executive commissioner" means the executive
6-67 commissioner of the Health and Human Services Commission.
- 6-68 (4) "Function" includes a power, duty, program, or
6-69 activity of a state agency or entity.

7-1 (b) The Health and Human Services Transition Legislative
 7-2 Oversight Committee is created to facilitate the transfer of
 7-3 functions to or from the commission as provided by this Act and
 7-4 other enacted legislation of the 84th Legislature, Regular Session,
 7-5 2015, that becomes law, requiring such a transfer, with minimal
 7-6 negative effect on the delivery of services to which those
 7-7 functions relate.

7-8 (c) The committee is composed of 11 voting members, as
 7-9 follows:

7-10 (1) four members of the senate, appointed by the
 7-11 lieutenant governor;

7-12 (2) four members of the house of representatives,
 7-13 appointed by the speaker of the house of representatives; and

7-14 (3) three members of the public, appointed by the
 7-15 governor.

7-16 (d) The executive commissioner serves as an ex officio,
 7-17 nonvoting member of the committee.

7-18 (e) A member of the committee serves at the pleasure of the
 7-19 appointing official.

7-20 (f) The lieutenant governor and the speaker of the house of
 7-21 representatives shall each designate a presiding co-chair from
 7-22 among their respective appointments.

7-23 (g) A member of the committee may not receive compensation
 7-24 for serving on the committee but is entitled to reimbursement for
 7-25 travel expenses incurred by the member while conducting the
 7-26 business of the committee as provided by the General Appropriations
 7-27 Act.

7-28 (h) The committee shall:

7-29 (1) facilitate the transfer of functions to the
 7-30 commission prescribed by Subchapter A-1, Chapter 117, Human
 7-31 Resources Code, as added by this Act, and any other transfers
 7-32 described by Subsection (b) of this section, with minimal negative
 7-33 effect on the delivery of services to which those functions relate;

7-34 (2) with assistance from the commission and the state
 7-35 agencies and entities from which functions are transferred under
 7-36 the laws described under Subdivision (1) of this subsection, advise
 7-37 the executive commissioner concerning:

7-38 (A) the functions to be transferred and the funds
 7-39 and obligations that are related to the functions;

7-40 (B) the transfer of the functions and related
 7-41 records, property, funds, and obligations by the state agencies and
 7-42 entities; and

7-43 (C) any required reorganization of the
 7-44 commission's administrative structure resulting from the
 7-45 transfers; and

7-46 (3) meet at the call of either chair at times
 7-47 determined appropriate by either chair.

7-48 (i) Chapter 551, Government Code, applies to the committee.

7-49 (j) The committee shall submit a report to the governor,
 7-50 lieutenant governor, speaker of the house of representatives, and
 7-51 legislature not later than December 1 of each even-numbered year.
 7-52 The report must include an update on the progress of and issues
 7-53 related to the purposes and duties of the committee.

7-54 (k) The committee is abolished September 1, 2019.

7-55 (l) The transfers of functions described by Subsection (b)
 7-56 of this section must be accomplished in accordance with a
 7-57 transition plan developed by the executive commissioner that
 7-58 ensures that the transfers and provision of health and human
 7-59 services in this state are accomplished in a careful and
 7-60 deliberative manner. The transition plan must:

7-61 (1) include an outline of the proposed organization of
 7-62 the transferred functions in the commission's organizational
 7-63 structure; and

7-64 (2) include details regarding movement of functions
 7-65 and a timeline that specifies the dates on which transfers are to be
 7-66 made.

7-67 (m) In developing the transition plan, the executive
 7-68 commissioner shall, before submitting the plan to the committee,
 7-69 the governor, and the Legislative Budget Board as required by

8-1 Subsection (n) of this section:
8-2 (1) hold public hearings in various geographic areas
8-3 in this state regarding the plan; and
8-4 (2) solicit and consider input from appropriate
8-5 stakeholders.
8-6 (n) The executive commissioner shall submit the transition
8-7 plan to the committee, the governor, and the Legislative Budget
8-8 Board not later than March 1, 2016. The committee shall comment on
8-9 and make recommendations to the executive commissioner regarding
8-10 any concerns or adjustments to the transition plan the committee
8-11 determines appropriate. The executive commissioner may not
8-12 finalize the transition plan until the executive commissioner has
8-13 reviewed and considered the comments and recommendations of the
8-14 committee regarding the transition plan.
8-15 (o) The executive commissioner shall publish in the Texas
8-16 Register:
8-17 (1) the transition plan developed under this section;
8-18 (2) any adjustments to the transition plan recommended
8-19 by the committee;
8-20 (3) a statement regarding whether the executive
8-21 commissioner adopted or otherwise incorporated the recommended
8-22 adjustments; and
8-23 (4) if the executive commissioner did not adopt a
8-24 recommended adjustment, the justification for not adopting the
8-25 adjustment.
8-26 (p) Not later than October 1, 2015:
8-27 (1) the lieutenant governor, the speaker of the house
8-28 of representatives, and the governor shall make the appointments to
8-29 the committee as required by Subsection (c) of this section; and
8-30 (2) the lieutenant governor and the speaker of the
8-31 house of representatives shall each designate a presiding co-chair
8-32 of the committee in accordance with Subsection (f) of this section.
8-33 (q) This section takes effect only if the Department of
8-34 Assistive and Rehabilitative Services is not continued in existence
8-35 by any legislation of the 84th Legislature, Regular Session, 2015.
8-36 SECTION 6. The following provisions of the Human Resources
8-37 Code are repealed:
8-38 (1) Section 91.022, as amended by S.B. No. 219, Acts
8-39 of the 84th Legislature, Regular Session, 2015; and
8-40 (2) Section 117.153, as redesignated and amended by
8-41 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015.
8-42 SECTION 7. The executive commissioner of the Health and
8-43 Human Services Commission shall adopt the rules required by Section
8-44 117.080(e), Human Resources Code, as added by this Act, as soon as
8-45 practicable after the effective date of this Act.
8-46 SECTION 8. If before implementing any provision of this Act
8-47 a state agency determines that a waiver or authorization from a
8-48 federal agency is necessary for implementation of that provision,
8-49 the agency affected by the provision shall request the waiver or
8-50 authorization and may delay implementing that provision until the
8-51 waiver or authorization is granted.
8-52 SECTION 9. Except as otherwise provided by this Act, this
8-53 Act takes effect September 1, 2015.

8-54 * * * * *